

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JUDI OLIVO ,

Petitioner,

05 Civ. 3237(PKC)

-against-

ORDER DENYING  
APPOINTMENT  
OF COUNSEL

SUPERINTENDENT THORTON,

Respondent.  
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P. KEVIN CASTEL, District Judge:

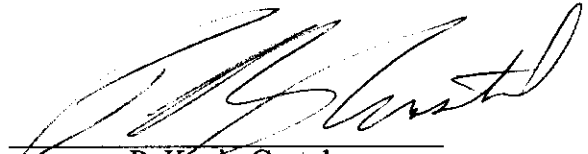
Ms. Olivo petitions for a writ of habeas corpus. By letter dated May 16, 2005 she has requested appointment of counsel.

Under the authority of 28 U.S.C. § 1915(e)(1), “[t]he court may request an attorney to represent any person unable to afford counsel.” In assessing plaintiff’s application, I have first examined the substance and likely merits of the underlying claims as they appear at this early stage of the proceeding. I have also examined, to the extent that the existing record permits me to do so, the plaintiff’s “ability to investigate the crucial facts, whether conflicting evidence implicating the need for cross-examination will be the major proof presented to the fact finder, the plaintiff’s ability to present the case, the complexity of the legal issues and any special reason in that case why appointment of counsel would be more likely to lead to a just determination.” Hodge v. Police Officers, 802 F.2d 58, 61-62 (2d Cir. 1986).

The claims raised in the petition are substantially similar to those advanced on direct appeal from petitioner’s conviction where petitioner was represented by counsel. Petitioner’s appellate brief will be considered in connection with the petition. Further, given the nature of the issues raised, it is unlikely that an evidentiary hearing will be necessary.

Petitioner's application for the appointment of counsel is denied without prejudice. Ms. Olivo is invited to contact the Court's Pro Se Office located in Room 230 of the Moynihan U.S. Courthouse, 500 Pearl Street, New York, NY 10007, 212-805-0175 to inquire about assistance in proceeding without a lawyer and the availability of lawyers willing to undertake her case without a fee.

SO ORDERED.

  
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P. Kevin Castel  
United States District Judge

Dated: New York, New York  
May 18, 2005